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December 27, 2011

Ms. Cynthia T. Brown
Chief of the Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D. C. 20423

ENTERED
Office of Proceedings

DEC 27 2011

Part of
Public Record

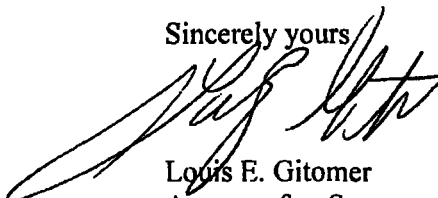
RE: Docket No. 42133, *Sierra Railroad Company and Sierra Northern
Railway v. Sacramento Valley Railroad Company, LLC, McClellan
Business Park, LLC, and County of Sacramento*

Dear Ms. Brown:

Enclosed for efilings are the original and 10 copies of the Answer of Sacramento
Valley Railroad Company, LLC, McClellan Business Park, LLC, and County of
Sacramento.

Thank you for your assistance. If you have any questions, please call or email
me.

Sincerely yours



Louis E. Gitomer
Attorney for: Sacramento Valley Railroad
Company, LLC, McClellan Business Park, LLC,
and County of Sacramento

Enclosure

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. 42133

SIERRA RAILROAD COMPANY AND SIERRA NORTHERN RAILWAY
v.
SACRAMENTO VALLEY RAILROAD COMPANY, LLC
MCCLELLAN BUSINESS PARK, LLC
AND COUNTY OF SACRAMENTO

ANSWER OF SACRAMENTO VALLEY RAILROAD COMPANY, LLC, MCCLELLAN
BUSINESS PARK, LLC, AND COUNTY OF SACRAMENTO TO COMPLAINT

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Dated: December 27, 2011

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. 42133

SIERRA RAILROAD COMPANY AND SIERRA NORTHERN RAILWAY

v.

SACRAMENTO VALLEY RAILROAD COMPANY, LLC
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ANSWER OF SACRAMENTO VALLEY RAILROAD COMPANY, LLC, MCCLELLAN
BUSINESS PARK, LLC, AND COUNTY OF SACRAMENTO TO COMPLAINT

Pursuant to 49 C.F.R. § 1111.4, Sacramento Valley Railroad Company, LLC ("SAV"), McClellan Business Park, LLC (McClellan"), and the County of Sacramento ("Sacramento" and with SAV and McClellan, jointly referred to as "Defendants") answer the Complaint filed on December 7, 2011 (the "Complaint") by Sierra Railroad Company ("Sierra") and Sierra Northern Railway ("SERA" and with Sierra jointly referred to as "Complainants").

The Complaint concerns the continued rail service over approximately seven miles in the McClellan Business Park ("MBP"). SERA previously operated in the MBP until McClellan terminated the contract to operate. McClellan entered a contract with SAV to provide rail service in MBP. SAV is providing service to the shippers in MBP and is unaware of any complaints by the shippers.

Defendants deny all allegations made by Complainants that Defendants have violated 49 U.S.C. §§ 10702(2) and 10704(b). In response to the unnumbered paragraph beginning on page 1 of the Complaint, Defendants deny that they have failed to maintain reasonable practices.

To the extent that Defendants do not specifically admit an allegation made in the Complaint, that allegation is denied.

With respect to the numbered paragraphs of the Complaint, Defendants responds as follows:

1. Defendants are without sufficient information to admit or deny the allegations of Paragraph 1. To the extent response is required, Defendants deny the allegations of Paragraph 1.

2. Defendants are without sufficient information to admit or deny the allegations of Paragraph 2. To the extent response is required, Defendants deny the allegations of Paragraph 2.

3. SAV admits that it is a Class III carrier subject to the jurisdiction of the Surface Transportation Board (the "Board"). McClellan and Sacramento are without sufficient information to admit or deny the allegations of Paragraph 3.

4. Paragraph 4 states an erroneous legal conclusion to which no response is required. To the extent a response is required, McClellan denies the allegations of Paragraph 4 that it is a rail carrier. SAV and Sacramento are without sufficient information to admit or deny the allegations of Paragraph 4.

5. Paragraph 5 states an erroneous legal conclusion to which no response is required. To the extent a response is required, Sacramento denies the allegations of Paragraph 5 that it is a rail carrier. SAV and McClellan are without sufficient information to admit or deny the allegations of Paragraph 5.

6. Defendants admit the allegations in Paragraph 6.

7. Sacramento admits the allegations of Paragraph 7. SAV and McClellan are without sufficient information to admit or deny the allegations of Paragraph 7.

8. Sacramento admits the allegations of Paragraph 8. SAV and McClellan are without sufficient information to admit or deny the allegations of Paragraph 8.

9. Paragraph 9 states a legal conclusion to which no response is required. To the extent a response is required, Defendants are without sufficient information to admit or deny the allegations of Paragraph 9.

10. Paragraph 10 states a legal conclusion to which no response is required. To the extent a response is required, Defendants are without sufficient information to admit or deny the allegations of Paragraph 10.

11. McClellan and Sacramento admit the allegations of Paragraph 11. SAV is without sufficient information to admit or deny the allegations of Paragraph 11.

12. The allegation in Paragraph 12 is so unclear that Defendants are without sufficient information to admit or deny the allegations of Paragraph 12.

13. McClellan and SAV admit the allegations of Paragraph 13. Sacramento is without sufficient information to admit or deny the allegations of Paragraph 13.

14. Defendants are without sufficient information to admit or deny the allegations of Paragraph 14. Defendants did not and do not know SERA's state of mind or what SERA might have been thinking. To the extent response is required, Defendants deny the allegations of Paragraph 14.

15. Sacramento is without sufficient information to admit or deny the allegations of Paragraph 15. McClellan is without sufficient information to admit or deny the allegations in Paragraph 15 relating to actions taken by Patriot Rail, LLC or SAV. McClellan admits that it "advised SERA that it would be entering into the License and Operating Agreement with SAV,

effective March 1, 2008.” SAV denies the allegations contained in Paragraph 15 that it was organized “to bid for the right to provide service on the seven miles of railroad tracks” because SAV was not organized until the bid had been awarded to Patriot Rail, LLC. SAV is without sufficient information to admit or deny the allegations contained in the remainder of Paragraph 15.

16. The pleadings filed in the United States District Court for the Eastern District of California, Case No. 2:09-cv-00009-MCE-EFB, *Patriot Rail Corp. v. Sierra Railroad Company* speak for themselves and Defendants will not characterize those pleadings. Defendants are without sufficient information to admit or deny the allegations of Paragraph 16. To the extent response is required, Defendants deny the allegations of Paragraph 16 and SAV specifically denies that it has engaged in any improper and illegal conduct related to its rail operator contract with McClellan. To SAV’s knowledge Sierra has not sought before the Court in the above-referenced action the remedy of the “return to SERA of the right to render the McClellan operations”.

17. Defendants admit that SAV is the only railroad, as of the date of this answer, authorized by contract to service the McClellan complex. Paragraph 17 states a legal conclusion to which no response is required. To the extent a response is required, Defendants are without sufficient information to admit or deny the allegations of Paragraph 17, except as stated above.

18. McClellan and Sacramento are without sufficient information to admit or deny the allegations of Paragraph 18. SAV admits that Complainants have accurately quoted a portion of a sentence on page 5 of the Notice of Exemption filed on January 29, 2008 in *Sacramento Valley Railroad, Inc.-Operation-Exemption-McClellan Business Park, LLC*, Finance Docket No. 35117

(the "*Notice*"). The remaining portions of Paragraph 18 state a legal conclusion to which no response is required. To the extent a response is required, SAV denies the allegations in paragraph 18.

19. Defendants admit that SAV is currently the sole and exclusive operator of the McClellan complex and that they have not commenced an adverse discontinuance proceeding before the Board as they are under no legal obligation to seek such discontinuance.

20. Paragraph 20 states a legal conclusion to which no response is required. To the extent a response is required, SAV is without sufficient information to admit or deny the allegations of Paragraph 20. To the extent a response is required, McClellan and Sacramento deny the allegations in Paragraph 20.

21. Defendants deny the allegations in Paragraph 21. SAV notes that in the *Notice* cited by Complainants at Paragraph 18 of the Complaint, SAV stated "[SAV] is willing to enter an operational protocol with Yolo's successor, if that becomes necessary, in order to meet the needs of MBP." This language appears in the *Notice* at about four sentences after the language quoted by Complainants in Paragraph 18 above.

22. Defendants deny the allegations in Paragraph 22.

The unnumbered final paragraph of the Complaint (on page 6) states legal conclusions and requests for relief, to which no response is required. To the extent a response may be deemed necessary, Defendants deny the allegations, conclusions, and requests for relief in that final paragraph. Defendants deny that Complainants are entitled to any of the relief that they seek in this proceeding or to any other relief.

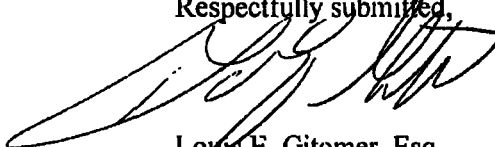
AFFIRMATIVE DEFENSES

1. SERA does not have a contractual right to operate in MBP.
2. Defendants are not under any legal obligation to seek or to incur the cost of seeking authority for SERA to discontinue service in the MBP.
3. SAV's practices with regard to rail operations in the MBP are reasonable.
4. McClellan's practices with regard to rail operations in the MBP are reasonable.
5. Sacramento's practices with regard to rail operations in the MBP are reasonable.
6. Sacramento and McClellan are not rail carriers subject to the jurisdiction of the Board.
7. Complainants are barred from bringing this Complaint by laches.
8. Complainants have at all times been able to commence a discontinuance proceeding before the Board to terminate their common carrier obligation within the MBP and have failed to do so.

PRAYER

For the foregoing reasons, Defendants request the Board to: (1) conclude that Defendants have not violated any provision of 49 U.S.C. §§ 10702(2) or 10704(b); (2) dismiss the complaint; (3) discontinue this proceeding; and (4) award Defendants such other relief to which it is entitled.

Respectfully submitted,



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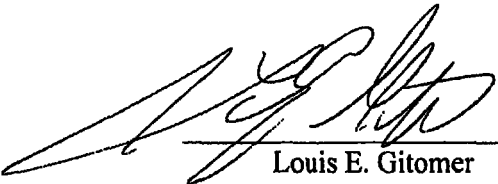
CERTIFICATE OF SERVICE

I hereby certify that I have caused the foregoing document to be served electronically
upon:

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